



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 POST OFFICE SQUARE SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

VIA EMAIL (ptraylor@vlaw.com)

Dated by electronic signature

Patrick D. Traylor, Esq.
Vinson & Elkins LLP
2200 Pennsylvania Avenue NW, Suite 500 West
Washington, DC 20037

Re: Algonquin Weymouth Compressor Station
Approval of Request for Force Majeure Extension of NSPS Performance Test

Dear Mr. Traylor:

On behalf of Algonquin Gas Transmission, LLC (“Algonquin”), you have requested a *force majeure*-based extension of time under 40 C.F.R. § 60.8(a) to conduct an initial performance test under 40 C.F.R. Part 60, Subpart KKKK at Algonquin’s Weymouth Compressor Station (“the Station”).

Your letter of October 30, 2020 states that the Station achieved its maximum production rate on September 24, 2020, and that the Subpart KKKK initial performance test is due no later than sixty days later, or by November 23, 2020.¹ However, you report that as a result of two equipment failures in September 2020, the U.S. Pipeline and Hazardous Materials Safety Administration (“PHMSA”) has issued a Corrective Action Order (“CAO”)² requiring the Station to shut down until PHMSA has approved a restart plan. Algonquin requests a *force majeure*-based extension of time under 40 C.F.R. § 60.8(a) in which to conduct the initial performance test, to sixty days after the Station restarts its turbine.³

A *force majeure* event is defined at 40 C.F.R. § 60.2:

Force majeure means, for purposes of § 60.8, an event that will be or has been caused by circumstances beyond the control of the affected facility, its

¹ See 40 C.F.R. § 60.4400(a) (referencing 40 C.F.R. § 60.8).

² *In re Algonquin Gas Transmission, LLC*, Corrective Action Order, CPF No. 1-2020-014-CAO (PHMSA, Oct. 1, 2020).

³ Algonquin’s October 30, 2020 letter sought an extension to 60 days following restart of the Station. In its letter dated November 19, 2020, Algonquin amends its request to seek an extension to 60 days following restart of the Station’s turbine.

contractors, or any entity controlled by the affected facility that prevents the owner or operator from complying with the regulatory requirement to conduct performance tests within the specified timeframe despite the affected facility's best efforts to fulfill the obligation. Examples of such events are acts of nature, acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility.

Forty CFR § 60.8(a)(1) provides:

If a force majeure is about to occur, occurs, or has occurred for which the affected owner or operator intends to assert a claim of force majeure, the owner or operator shall notify the Administrator, in writing as soon as practicable following the date the owner or operator first knew, or through due diligence should have known that the event may cause or caused a delay in testing beyond the regulatory deadline, but the notification must occur before the performance test deadline unless the initial force majeure or a subsequent force majeure event delays the notice, and in such cases, the notification shall occur as soon as practicable.

You report that on September 11, 2020, the Station experienced an O-ring gasket failure on a filter separator vessel during the Station's commissioning activities, and that the failure triggered the manual operation of the emergency shutdown system, resulting in a reported total release of 169 MSCF (one thousand standard cubic feet) of natural gas. Furthermore, you report that after replacement of the O-ring gasket and the restart of the Station, on September 30, 2020 the Station experienced an unplanned activation of its emergency shutdown system, resulting in a release of approximately 195 MSCF of natural gas.

Under the terms of the CAO issued by PHMSA, the Station has been ordered to shut down operation until authorized to restart by PHMSA. Algonquin must submit to PHMSA a restart plan for approval by PHMSA prior to restarting the Station, and a root cause failure analysis for these two events no later than December 29, 2020.

According to your supplemental letter dated November 19, 2020, Algonquin has analyzed the equipment failure of September 30 and has now completed the necessary equipment repairs and replacements. Algonquin has submitted a proposed restart plan to PHMSA but cannot operate the Station until PHMSA approves the restart plan. The proposed restart plan contemplates bringing the Station back into service using a five-phase pressurization plan, which would include interim leak surveys and operational approvals by PHMSA. This phased approach would span a number of days, culminating in the Station being approved to return to full maximum allowable operating pressure. The turbine may only be restarted after the completion of the five-phase pressurization plan, and following return to full pressure, the Subpart KKKK testing cannot be completed until all safety and operational checks are completed.

Based on the circumstances you report, EPA finds that events beyond Algonquin's control have prevented it from conducting an initial performance test at the Station within 60 days of reaching its maximum production rate, despite its best efforts. The request letter and supporting documentation you submitted on behalf of Algonquin provide timely notice, describe the

claimed *force majeure* events, explain why the events prevent Algonquin from meeting the initial performance test deadline, describe the measures being taken to minimize the delay, and identify a time frame for conducting the testing. Therefore, EPA has determined that it is appropriate to approve the request and grant an extension to the performance test deadline.

Because the Station is not currently operating, and cannot operate in a representative manner immediately upon authorization to restart due to the need to ramp up operations over a period of time and to complete safety and operational checks, it is appropriate that the performance deadline be extended to 60 days after the restart of the Station's turbine.

EPA approves Algonquin's request for an extension of time under 40 CFR § 60.8(a). Algonquin shall perform the initial performance test within 60 days of its startup of the turbine. This approval does not address the requirement of 40 CFR § 60.8(a) to perform the initial performance test no later than 180 days after initial startup.

If you have questions regarding this extension, please contact Tom Olivier, Senior Enforcement Counsel, Office of Regional Counsel, at (617) 918-1737.

Sincerely,

Dennis Deziel, Regional Administrator
Environmental Protection Agency - Region 1 (New England)

cc (via email): Barry Goodrich, Algonquin Gas Transmission
Seth Pickering, Deputy Director Southeast Region Office, MassDEP